

EXHIBIT 2

Letter re: Motion to Compel Discovery From Defendants

quinn emanuel trial lawyers | new york

51 Madison Avenue, 22nd Floor, New York, New York 10010-1601 | TEL: (212) 849-7000 FAX: (212) 849-7

October 9, 2012

VIA ELECTRONIC MAIL

The Honorable Denise L. Cote
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Room 1610
New York, NY 10007

Re: FHFA Actions, 11-cv-6195, 11-cv-6190, 11-cv-6196, 11-cv-6200, 11-cv-6192,
11-cv-6193, 11-cv-6198, 11-cv-6189, 11-cv-6188, 11-cv-6202, 11-cv-6201, 11-cv-5201

Dear Judge Cote:

We write on behalf of Plaintiff FHFA to respectfully request permission to file a motion to compel discovery from defendants to the twelve above-referenced actions (“Defendants”).

FHFA has engaged in multiple meet-and-confer sessions with each Defendant, but has reached an impasse with a number of Defendants on two critical issues: (1) production of documents relating to the period during and after which the Securitizations were completed, and (2) production of documents relating to other relevant actions and investigations. While FHFA continues to meet and confer with Defendants, as document production must be substantially completed by October 22, 2012, it is not practicable to defer seeking intervention on these issues.

First, Defendants are improperly limiting the time period from which they are collecting documents, and thus likely excluding large quantities of relevant documents, including the most damaging ones. FHFA requested that Defendants collect and produce certain documents through September 2, 2011, the date on which the complaints in these actions were filed.

No Defendant has agreed to FHFA’s request, and, to date, Citi, Deutsche Bank, Barclays, UBS and Goldman Sachs have explicitly refused it. Specifically, Defendants are refusing to run through September 2011 what the parties call “Originator Searches”—search terms targeting references to specific loan originators regarding various topics germane to FHFA’s allegations, such as (i) performance of the Securitizations or Mortgage Loans (including ratings downgrades, defaults and delinquencies); (ii) poor underwriting practices (including in areas of appraisal, DTI, LTV, *etc.*); (iii) Defendants’ retrospective realizations of risks created by such practices; and (iv) loan repurchase requests made by Defendants or submitted to them, which will reveal Defendants’ interpretations of originators’ underwriting guidelines. A copy of the Originator

quinn emanuel urquhart & sullivan, llp

LOS ANGELES | 865 South Figueroa Street, 10th Floor, Los Angeles, California 90017-2543 | TEL (213) 443-3000 FAX (213) 443-3100

SAN FRANCISCO | 50 California Street, 22nd Floor, San Francisco, California 94111-4788 | TEL (415) 875-6600 FAX (415) 875-6700

SILICON VALLEY | 555 Twin Dolphin Drive, 5th Floor, Redwood Shores, California 94065-2139 | TEL (650) 801-5000 FAX (650) 801-5100

CHICAGO | 500 W. Madison Street, Suite 2450, Chicago, Illinois 60661-2510 | TEL (312) 705-7400 FAX (312) 705-7401

WASHINGTON, DC | 1299 Pennsylvania Avenue NW, Suite 825, Washington, District of Columbia 20004-2400 | TEL (202) 538-8000 FAX (202) 538-8100

LONDON | 16 Old Bailey, London EC4M 7EG, United Kingdom | TEL +44 20 7653 2000 FAX +44 20 7653 2100

TOKYO | NBF Hibiya Building, 25F, 1-1-7, Uchisaiwai-cho, Chiyoda-ku, Tokyo 100-0011, Japan | TEL +81 3 5510 1711 FAX +81 3 5510 1712

MANNHEIM | Mollstraße 42, 68165 Mannheim, Germany | TEL +49 621 43298 6000 FAX +49 621 43298 6100

MOSCOW | Paveletskaya Plaza, Paveletskaya Square, 2/3, 115054 Moscow, Russia | TEL +7 499 277 1000 FAX +7 499 277 1001

HAMBURG | An der Alster 3, 20099 Hamburg, Germany | TEL +49 40 89728 7000 FAX +49 40 89728 7100

Letter re: Motion to Compel Discovery From Defendants

Searches that Defendants intend to apply is attached as Exhibit 1.¹ In general, Defendants are refusing to run these searches beyond late 2007 and are instead running far more limited searches on the topics of repurchases and/or performance monitoring, on a few custodians' documents.

Highly relevant documents identified by the Originator Searches are located in the post-2007 period. Documents monitoring Securitization performance or regarding loan repurchases, by their very nature, would have been generated or received only *after* the Securitizations closed. Further, it is after the onset of the mortgage crisis in 2008 that employees at entities like the Defendants are particularly likely to have authored and exchanged correspondence about the topics covered by the Originator Searches, including correspondence acknowledging and/or admitting knowledge of departures from the underwriting guidelines in the 2005 to 2007 period.²

Some Defendants, including Citi, Credit Suisse, Deutsche Bank, Bank of America and Merrill Lynch, are grossly limiting even the pre-closing time period in which they are applying the Originator Searches, which is generally from September 2005 to July 2007. These Defendants are applying the searches on a Securitization-specific basis, such that they will run a search during only a four-month period surrounding the closing date for the particular Securitization(s) for which a given originator (for example, Wells Fargo) originated loans. But for example, emails describing or evaluating the origination practices of originators whose loans Defendants securitized are not likely to have been sent and received only in this four-month period. FHFA, and some other Defendants, are generally applying all Originator Searches across the pre-closing time period. Certain Defendants are imposing limitations on their own searches for originator-related information that they would never accept on FHFA's part.³

Second, none of the Defendants have agreed to produce documents relating to private label securitizations ("PLS") (including deposition transcripts, affidavits, and declarations) that they already produced in other litigations and government investigations. JPMorgan, Goldman Sachs, HSBC and Deutsche have outright refused, and Citi has agreed to produce only declarations and deposition transcripts for one litigation, while Bank of America and Merrill have agreed to mutual exchange of lists of PLS-related litigations and investigations, to facilitate discussions of a mutual exchange of documents. These prior cases and investigations—many of which are described in the Amended Complaints—bear on the same originators and underwriting practices at issue in these actions. Like the Amended Complaints, they allege systematic abandonment of underwriting guidelines and misrepresentations of LTV ratios and owner occupancy status. Defendants cannot seriously contend that production of these documents, which have already been produced to other parties, is unduly burdensome.

FHFA respectfully requests permission to file an omnibus motion to compel addressing these two disputes, as well as additional discovery issues on which FHFA and Defendants have

¹ FHFA continues to negotiate with Defendants the sufficiency of such searches.

² Notably, Defendants have not denied the relevance of the documents sought, because they cannot. FHFA is searching its own custodians and documents using analogous Originator Searches, despite the burden imposed.

³ Indeed, Defendants' Requests for Production seek documents "through the present," and FHFA is producing documents for 66 custodians (approximately half of its total number of custodians) through that same date.

Letter re: Motion to Compel Discovery From Defendants

reached or may reach an impasse, on an expedited schedule. We are available at the Court's convenience for a conference to discuss these issues.

Respectfully submitted,

/s/ Philippe Selendy

Philippe Z. Selendy
(philippeselendy@quinnemanuel.com)
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010
(212) 849-7000

*Attorney for Plaintiff Federal Housing Finance
Agency in FHFA v. UBS Americas, Inc., FHFA v. JPMorgan Chase & Co., FHFA v. Deutsche
Bank AG, FHFA v. Citigroup Inc., and FHFA v. Goldman, Sachs & Co.*

/s/ Christine Chung

Christine H. Chung
(christinechung@quinnemanuel.com)
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010

*Attorney for Plaintiff Federal Housing Finance
Agency in FHFA v. First Horizon National
Corp., FHFA v. Bank of America Corp., and
FHFA v. Credit Suisse Holdings (USA), Inc.*

/s/ Richard Schirtzer

Richard A. Schirtzer
(richardschirtzer@quinnemanuel.com)
Adam Abensohn
(adamabensohn@quinnemanuel.com)
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010

*Attorney for Plaintiff Federal Housing Finance
Agency in FHFA v. HSBC North America
Holdings, Inc.
and FHFA v. Nomura Holding America, Inc.*

/s/ Manisha Sheth

Manisha M. Sheth
(manishasheth@quinnemanuel.com)
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010

*Attorney for Plaintiff Federal Housing Finance
Agency in FHFA v. UBS Americas, Inc., FHFA v. JPMorgan Chase & Co., FHFA v. Barclays Bank
PLC, FHFA v. Citigroup Inc., and FHFA v. Merrill Lynch & Co., Inc.*

cc: All Counsel of Record (via email)

Exhibit 1

Appendix A

Defendants' Counter-Proposal to Plaintiff's June 21, 2012 Supplemental Search Term Proposal for Electronic Searches of Defendants' Documents

Plaintiff's Proposal	Defendants' Counter-Proposal
ORIGINATION GUIDELINES	
<p>([SHELF] OR MBS OR RMBS OR securitiz* OR PLS OR “private label” OR “mortgage-backed” OR “mortgage backed”) AND (rating* OR kick* OR drop* OR cure OR curing OR replace* OR issue OR declin* OR “cut off” OR cut-off OR cutoff OR default OR conform* OR write-down OR “write down” OR “back end” OR “back-end” OR “front end” OR “front-end” OR downgrad* OR represent* OR warrant*)</p>	<p>We are not willing to run this search because: (i) to the extent that it incorporates shelf names, it is likely to generate an excessive number of false hits and the relevant responsive documents can be captured more efficiently through searches based on the deal names and permutations thereof (which Defendants have already agreed to run); and (ii) to the extent that this search pertains to origination practices, relevant responsive documents can be captured more efficiently through the originator-related search terms proposed below.</p>
<p>([Originator and Variations of Names] OR Lend*) AND (underwrit* OR UW OR U/W) AND (risk* OR fraud OR misrep* OR audit* OR issue* OR problem OR review* OR mislead* OR misled OR conform* OR nonconform* OR non-conform* OR exception OR waiv* OR kick* OR guideline* OR practic* OR standard* OR polic* OR abandon* OR depart* OR loose* OR lower* OR relax* OR adher* OR ease* OR deterior* OR wors* OR deviat* OR violat* OR compl* OR follow* OR diligen* OR default* OR delinquen*)</p>	<p>[Originator and Variations of Names] AND (underwrit* OR UW OR U/W OR guideline) w/10 (risk* OR fraud OR misrep* OR audit* OR issue* OR problem OR mislead* OR misled OR conform* OR nonconform* OR “non-conform*” OR waiv* OR kick* OR practic* OR standard* OR abandon* OR depart* OR loose* OR lower* OR relax* OR adher* OR ease* OR deterior* OR wors* OR deviat* OR violat* OR compl* OR diligen* OR default* OR delinquen*)</p>

Plaintiff's Proposal	Defendants' Counter-Proposal
[Originator and Variations of Names] AND (cure OR curing OR repurchas* or substitut* OR kick* OR putback OR "put back" OR "put-back" OR ineligib* OR remov* OR exchange)	<p>[Originator and Variations of Names] AND ((cure OR curing OR repurchase) w/10 demand)</p> <p>[Originator and Variations of Names] AND ((substitut* OR putback OR "put back" OR "put-back" OR ineligib* OR remov* OR exchange) w/10 (mortgage* OR loan*))</p> <p>[Originator and Variations of Names] AND (kick* w/10 (mortgage* OR loan*))</p>
[Originator and Variations of Names] AND ((repo* OR exception OR reject* OR compensat*) w/20 (mortgage* OR loan*))	[Originator and Variations of Names] AND ((loan* OR guideline*) w/20 (repo* OR exception OR reject* OR compensat*))
[Originator and Variations of Names] AND ((loan* OR guideline* OR program*) w/20 (deterior* OR wors* OR deviat* OR downgrad* OR except* OR violat* OR loos* OR relax* OR streamlin* OR "stream line" OR conform*))	[Originator and Variations of Names] AND ((loan* OR guideline* OR program*) w/20 (deterior* OR wors* OR deviat* OR downgrad* OR except* OR violat* OR loos* OR relax* OR streamlin* OR "stream line"))
[Originator and Variations of Names] AND (income w/20 (understat* OR verif*)) OR "liar loan" OR "low doc*" OR "no doc*" OR NINJ* OR NINA OR SISA OR "reduced doc*"	<p>[Originator and Variations of Names] AND (("low doc*" OR "no doc*" OR NINJ* OR NINA OR SISA OR "reduced doc*" OR liar) w/5 (mortgage* OR loan*))</p> <p>[Originator and Variations of Names] AND (income w/20 (understat* OR verif* OR stated))</p>
[Originator and Variations of Names] AND (FICO AND (compensating factor* OR high* OR low* OR conform* OR mislead* OR misled OR artificial))	[Originator and Variations of Names] AND (FICO AND ("compensating factor*" OR high* OR low* OR conform* OR mislead* OR misled OR artificial))
[Originator and Variations of Names] AND ((trustee OR distribution) w/5 report OR list)	[Originator and Variations of Names] AND ((trustee OR distribution) w/5 report OR list)

Plaintiff's Proposal	Defendants' Counter-Proposal
[Originator and Variations of Names] AND "HPI" OR "home price"	[Originator and Variations of Names] AND ("home price index" OR HPI OR "home price appreciation")
[Originator and Variations of Names] AND ("automated valuation model" OR AVM OR "automated model")	[Originator and Variations of Names] AND ("automated valuation model" OR "automated model" OR AVM)
[Originator and Variations of Names] AND "hit the bid"	[Originator and Variations of Names] AND "hit the bid"
[Originator and Variations of Names] AND "silent second"	[Originator and Variations of Names] AND "silent second"
[Originator and Variations of Names] AND ("Uniform Standards of Professional Appraisal Practice" OR "USPAP")	[Originator and Variations of Names] AND (("Uniform Standards of Professional Appraisal Practice") OR USPAP)
[Originator and Variations of Names] AND (DTI OR "debt to income")	[Originator and Variations of Names] AND (DTI OR "debt to income")
[Originator and Variations of Names] AND "term sheet"	[Originator and Variations of Names] AND "term sheet"
LTV¹	
(LTV OR "loan to value" OR loan-to-value OR CLTV OR "combined loan to value" OR "combined loan-to-value") AND (AVM OR "automated valuation model" OR disclos* OR apprais* OR untrue OR misstat* OR fraud* OR false OR under-stat* OR compensat* OR high* OR low* OR understat* OR artificial* OR mislead* OR misled OR mistat* OR inflat*)	<p>[Originator and Variations of Names] AND ((CLTV OR "combined loan to value") AND (compensat* OR high* OR low* OR understat* OR artificial* OR mislead*))</p> <p>[Originator and Variations of Names] AND ((LTV OR "loan to value") AND ("compensating factor" OR high* OR low* OR understat* OR artificial* OR mislead*))</p>

¹ In addition to the two supplemental searches proposed by Defendants, many of Plaintiff's search terms already appear elsewhere in Defendants' Counter-Proposal (e.g., "automated valuation model," AVM, apprais*, misstat*, high*, low*, fraud, artificial, mislead*, misled and inflat*).

Plaintiff's Proposal	Defendants' Counter-Proposal
MODELS AND RISK ASSESSMENT	
([SHELF] OR [Deal names and variations]) AND (model* OR method* OR valu* OR analy* OR assess* OR estimat*) AND (default OR pric* OR account* OR pre-pay* OR pre-paid OR prepay* OR prepaid OR capital OR allocat* OR risk OR residual OR reserve* OR ALLL OR "allowance for loan losses" OR "provision for loan losses" OR EPD OR "early payment default" OR "layered risk" OR roll OR delinquen* OR loss)	We are not willing to run shelf names because they are likely to generate an excessive number of false hits and are not necessary given that we are willing to run the deal names and permutations thereof as independent search terms.
([SHELF] OR [Deal names and variations]) AND (risk OR default OR delinquen* OR residual OR valu* OR reserv* OR pric* OR capital OR allocat*) AND (model* OR assess* OR analy* OR estimat* OR review* OR represent* OR warrant*)	We are not willing to run shelf names because they are likely to generate an excessive number of false hits and are not necessary given that we are willing to run the deal names and permutations thereof as independent search terms.
OWNER-OCCUPANCY²	
Owner-occup* OR "owner occup*" OR occupancy AND (risk* OR fraud OR misrep* OR audit OR issue* OR problem OR review OR conform* OR verif*)	[Originator and Variations of Names] AND ("owner-occup*" OR "owner occup*" OR occupancy) AND (vacation* OR rent* OR investment* OR second* OR primary OR verif* OR risk* OR fraud OR misrep* OR audit OR issue* OR conform*))
(Borrower* OR Owner*) w/20 (Occup* OR Misstat* OR Lie*)	[Originator and Variations of Names] AND ((borrower* OR owner*) w/20 (occup* AND (misstat* OR lie*)))
APPRAISALS	

²

Defendants do not believe that running Plaintiff's owner-occupancy search term independently of the originator name will be helpful given that Plaintiff's complaints allege fraud by originators and not "generally."

Plaintiff's Proposal	Defendants' Counter-Proposal
apprais* AND (bias* OR inflat* OR pressur* OR guideline* OR improper* OR conform* OR practic* OR Standard* OR abandon* OR depart* OR Misstat* OR desktop OR AVM OR "automated valuation model" OR "retro-AVM" OR "field review" OR "drive by" OR tolerance* OR deviat* OR USPAP)	[Originator and Variations of Names] AND ((apprais* AND (bias* OR inflat* OR pressur* OR guideline* OR improper* OR desktop OR AVM OR "field review" OR "drive by" OR tolerance*))
DUE DILIGENCE AND CREDIT RISK MANAGER	
[Originator and Variations of Names] AND [Due Diligence Firm OR Variations of Names OR "credit risk manager"]	We will agree to run these terms if Plaintiff agrees to run the list of due diligence firms proposed by Defendants in their letter of June 27, 2012 to Plaintiff.
[Originator and Variations of Names] AND diligen* OR Dilly OR "_dd_"	[Originator and Variations of Names] AND (diligen* OR dilly OR "_dd_"
[Originator and Variations of Names] AND ("credit review" OR "compliance review" OR "data integrity review" OR "file to tape review" OR review* OR examin* OR analy* OR report OR diligenc*) AND [Due Diligence Firm OR Variations of Names]	[Originator and Variations of Names] AND ("credit review" OR "compliance review" OR "data integrity review" OR "file to tape review" OR review* OR examin* OR analy* OR report OR diligenc*) AND [Due Diligence Firm and Variations of Names]
[Originator and Variations of Names] AND (("quality control" OR QC OR "quality check" OR review* OR audit* OR test* OR compl* OR "internal audit") w/10 (mortgage* OR loan*))	[Originator and Variations of Names] AND (("quality control" OR QC OR review* OR audit* OR test* OR compl* OR "internal audit") w/10 (mortgage* OR loan*))
[Originator and Variations of Names] w/10 audit*	[Originator and Variations of Names] w/10 audit*
[Originator and Variations of Names] AND (reunderwr* OR "re-underwr*")	[Originator and Variations of Names] AND (reunderwr* OR "re-underwr*")
[Originator and Variations of Names] AND (CoreLogic OR Core Logic OR "Hansen Apprais*")	[Originator and Variations of Names] AND (CoreLogic OR "Core Logic" OR "Hansen Apprais*")

Plaintiff's Proposal	Defendants' Counter-Proposal
RATINGS AGENCIES	
Moody* OR *@moody.com	We are not willing to run rating agency names as stand-alone terms. Our experience is that ratings are discussed in connection with deal names and the deal names will pick up the relevant documents.
"S and P" OR SandP OR "Standard /2 Poor*" OR *@standardandpoors.com OR "S&P" OR "S & P"	We are not willing to run rating agency names as stand-alone terms. Our experience is that ratings are discussed in connection with deal names and the deal names will pick up the relevant documents.
Fitch OR *@fitchratings.com	We are not willing to run rating agency names as stand-alone terms. Our experience is that ratings are discussed in connection with deal names and the deal names will pick up the relevant documents.
DBRS OR *@DBRS.com	We are not willing to run rating agency names as stand-alone terms. Our experience is that ratings are discussed in connection with deal names and the deal names will pick up the relevant documents.
ADDITIONAL SINGLE SEARCHES	
predatory OR "hard money" OR "red herring" OR "limited credit history" OR (tape /10 (error* OR discrep*)) OR (thin OR sparse /5 (credit OR file*)) OR "wet fund*" OR "wet-fund*" OR (expand* w/2 sample)	[Originator and Variations of Names] AND ((predatory OR "hard money" OR "red herring" OR "limited credit history" OR (tape w /10 (error* OR discrep*)) OR (thin OR sparse w/5 (credit OR file*)) OR "wet fund*" OR "wet-fund*" OR (expand* w/2 sample))
Fannie and Freddie	We are not willing to run "Fannie" or "Freddie" as stand-alone terms as those terms add tremendous volume to the data to be searched. We have already agreed to run "@fanniemae.com" and "@freddiemac.com," which should pick up all communications between Defendants and Fannie and Freddie.